

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0434
Adjusted Gross Income Tax
For the Years 1998-2001

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ISSUE

I. Adjusted Gross Income Tax-Calculation of Income

Authority: IC 6-8.1-5-1 (b).

The taxpayer protests the calculation of his gross income.

II. Adjusted Gross Income Tax-Mileage Deduction

Authority: IC 6-8.1-5-1 (b).

The taxpayer protests the disallowance of the mileage deduction.

STATEMENT OF FACTS

The taxpayer is an Indiana resident doing business as an oriental grocery store in Indiana. After an investigation, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional adjusted gross income tax, interest, and penalty for the years 1998-2001. The taxpayer protested the imposition of the adjusted gross income tax and a hearing was held. This Letter of Findings results.

I. Adjusted Gross Income Tax-Calculation of Income

DISCUSSION

The taxpayer is a sole proprietor who operated an oriental grocery store. He reported the income from the business on his schedule C. The taxpayer did not have accurate records to substantiate his schedule C filings. Therefore, the auditor had to reconstruct the taxpayer's income and expenses to arrive at the correct adjusted gross income tax liability. The taxpayer protests this reconstruction.

The auditor considered several factors in reconstructing the taxpayer's income. The taxpayer's filings indicate an average profit margin for the four years of only 3.8%. The industry average for grocery stores in the taxpayer's category is 25%. The taxpayer's sales were underreported based on the purchases made by the taxpayer. The taxpayer's income on food and other purchases was adjusted to reflect profit margins in line with the industry averages. The taxpayer's invoices listed the cost and retail price for most of the prepaid calling cards. Upon examination of the various phone card vendors, an average was calculated and used for the phone card invoices that could not be found. The auditor used a reasonable and appropriate method of reconstructing the taxpayer's income.

All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b). The taxpayer was unable to submit adequate verifiable documentation to sustain its burden of proving that the reconstructed income was inaccurate.

FINDING

The taxpayer's protest is denied.

II. Adjusted Gross Income Tax-Mileage Deduction

DISCUSSION

The taxpayer purchased a new car in 1996 or 1997 on which he put 178,000 miles in four years. The taxpayer argued that all the miles were business related and properly deducted from the grocery store's gross income. The auditor disallowed the taxpayer's listed mileage deductions and gave a mileage deduction based upon industry standards. The taxpayer protested the disallowance of the total mileage deduction.

The taxpayer presented a travel log and testified that the car was used to go to the bank, post office, drug stores, utility offices, convenience stores, department stores, grocery stores, hardware stores, office supply stores, restaurants, West Lafayette, and Chicago at least one time per week. It is irrational to assume that all of these trips were directly related to the business of the taxpayer's grocery store. Since there was no further information to determine which trips qualify for a business mileage deduction, the auditor made an appropriate estimate. The proposed assessment is presumed correct unless the taxpayer offers substantial, verifiable documentation refuting that presumption. IC 6-8.1-5-1 (b). The taxpayer did not meet that standard.

FINDING

The taxpayer's protest is denied.